



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

February 8, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7007 3020 0002 5102 0830

Mr. David Baker, Plant Manager  
Sid Richardson Carbon and Energy Company  
5221 Sid Richardson Road  
Addis, Louisiana 70710

Re: Notice of Violation - Sid Richardson Carbon and Energy Company, Addis, Louisiana

Dear Mr. Baker:

Enclosed is a Notice of Violation (Notice) pursuant to Section 113(a) of the Clean Air Act (CAA), 42 U.S.C. §7413(a). This Notice is issued to Sid Richardson Carbon and Energy Company for violations of the Prevention of Significant Deterioration and Title V requirements under the CAA and the Louisiana State Implementation Plan at its Addis, Louisiana, facility. In accordance with Confidential Business Information (CBI) regulations, we have not included any CBI in the Notice.

Please note the opportunity to confer outlined in the Notice. Any request to confer should be directed to Lorraine Dixon, Assistant Regional Counsel. Ms. Dixon can be reached at (214) 665-7589.

Sincerely,

  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosure

cc: William R. Jones, President  
Sid Richardson Carbon and Energy Company

Greg King, Senior Vice President  
Sid Richardson Carbon and Energy Company

Long B. Nguyen, P.E.  
Corporate EH&S  
Sid Richardson Carbon and Energy Company

Re: Notice of Violation  
Sid Richardson Carbon and Energy Company

Robert T. Stewart, Esq.  
Kelly Hart & Hallman

Celena Cage, Administrator  
Enforcement Division  
Louisiana Department of Environmental Quality

Kellie Ortega, Esq.  
Air Enforcement Branch, OECA  
U.S. Environmental Protection Agency

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS**

IN THE MATTER OF:	)	
	)	
SID RICHARDSON CARBON AND	)	NOTICE OF VIOLATION
ENERGY COMPANY	)	
	)	
	)	
5221 SID RICHARDSON ROAD	)	
ADDIS, LOUISIANA 70710	)	

**NOTICE OF VIOLATION**

This Notice of Violation (Notice) is issued to Sid Richardson Carbon and Energy Company (SRCC) for violations of the Clean Air Act (CAA or the Act), 42 U.S.C. §§ 7401 *et seq.*, at its carbon black manufacturing plant located in Addis, Louisiana. Specifically, SRCC has violated the Prevention of Significant Deterioration (PSD) and the New Source Review (NSR) permitting requirements of the Louisiana State Implementation Plan (SIP) and the Federal Title V requirements of the Act at its Addis, Louisiana facility.

This Notice is issued pursuant to Section 113(a) of the CAA, 42 U.S.C. § 7413(a). Section 113(a) of the CAA requires the Administrator of the United States Environmental Protection Agency (EPA) to notify any person in violation of a SIP or permit of the violations. Also included are findings of violations of the federal regulations. The authority to issue this Notice has been delegated to the Regional Administrator of EPA Region 6, and re-delegated to the Director, Compliance Assurance and Enforcement Division, EPA Region 6.

**A. STATUTORY AND REGULATORY BACKGROUND**

1. The Clean Air Act is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).

**The National Ambient Air Quality Standards**

2. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires the Administrator of EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. For each such "criteria" pollutant, Section 109 of the Act, 42 U.S.C. § 7409, requires EPA to promulgate national ambient air quality standards (NAAQS) requisite to protect the public health and welfare.

3. Pursuant to Sections 108 and 109, 42 U.S.C. §§ 7408 and 7409, EPA has identified carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>), and particulate matter less than 10 micrometers (PM<sub>10</sub>) as criteria pollutants, and has promulgated NAAQS for such pollutants. *See* 40 C.F.R. §§ 50.4 – 50.17. Volatile organic compounds (VOC) and NO<sub>x</sub> are precursors to the formation of ozone in both nonattainment areas and attainment areas. *See* 40 C.F.R. §§ 51.165(a)(1) (xxxvii)(C)(1) and 52.21(b)(50)(i)(a).
4. Under Section 107(d) of the Act, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality is better or worse than the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular pollutant is termed an “attainment” area with respect to such pollutant. An area that does not meet the NAAQS for a particular pollutant is termed a “nonattainment” area with respect to such pollutant.
5. An area that cannot be classified as either “attainment” or “nonattainment” with respect to a particular pollutant due to insufficient data is termed “unclassifiable” with respect to such pollutant.
6. At all times relevant to this Notice, Addis, West Baton Rouge Parish, Louisiana, the area in which the Facility is located, has been classified as either attainment or unclassifiable for CO, SO<sub>2</sub>, and PM<sub>10</sub>. 40 C.F.R. § 81.319.
7. At all times relevant to the claims identified in this Notice, West Baton Rouge Parish has been classified as nonattainment for ozone either under the 1-hour ozone standard and under the 1997 8-hour ozone standard in December 2011. Presently it is designated as marginal nonattainment for the 2008, 8-hour ozone standard. 40 C.F.R. § 81.319.

#### Prevention of Significant Deterioration Regulations

8. Part C of Title I of the Act, 42 U.S.C. §§ 7470-7492, sets forth requirements for the prevention of significant deterioration of air quality in those areas designated as either attainment or unclassifiable for purposes of meeting the NAAQS standards. These requirements are designed to protect public health and welfare, to assure that economic growth will occur in a manner consistent with the preservation of existing clean air resources, and to assure that any decision to permit increased air pollution is made only after careful evaluation of all the consequences of such a decision and after public participation in the decision making process. 42 U.S.C. § 7470. These provisions are referred to herein as the “PSD program.”
9. Part C of Title I of the CAA (Sections 160 through 169) establishes the federal Prevention of Significant Deterioration (PSD) permitting program and requires each state to include a PSD program as part of its SIP.

10. Section 165(a) of the Act, 42 U.S.C. § 7475(a), among other things, prohibits the construction and operation of a “major emitting facility” in an area designated as attainment or unclassifiable unless a permit has been issued that comports with the requirements of Section 165 and the facility employs the best available control technology (BACT) for each pollutant subject to regulation under the Act that is emitted from the facility.
11. Section 169(1) of the Act, 42 U.S.C. § 7479(1), designates carbon black plants (furnace process) which emit or have the potential to emit one hundred tons per year or more of any pollutant to be “major emitting facilities.”
12. Section 169(2)(C) of the Act, 42 U.S.C. § 7479(2)(C), defines “construction” to include “modification” (as defined in Section 111(a) of the Act). “Modification” is defined in Section 111(a) of the Act, 42 U.S.C. § 7411(a), to be “any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.”
13. Sections 110(a) and 161 of the Act, 42 U.S.C. §§ 7410(a) and 7471, require each state to adopt a SIP that contains emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality in areas designated as attainment or unclassifiable.
14. A state may comply with Sections 110(a) and 161 of the Act, 42 U.S.C. §§ 7410(a) and 7471, by having its own PSD regulations, which must be at least as stringent as those set forth at 40 C.F.R. § 51.166, approved by EPA as part of its SIP. If a state does not have a PSD program that has been approved by EPA and incorporated into its SIP, the federal PSD regulations set forth at 40 C.F.R. § 52.21 may be incorporated by reference into the SIP. *See* 40 C.F.R. § 52.21(a).
15. On June 19, 1978, EPA established regulations implementing the federal PSD program at 40 C.F.R. § 52.21 and requirements for SIP approved programs at 40 C.F.R. § 52.166. *See* 43 Fed. Reg. 26,403 (June 19, 1978). Since that time, the PSD regulations have been revised, with subsequent revisions incorporated under 40 C.F.R. § 52.21.
16. EPA approved the State of Louisiana PSD Program in the federally enforceable SIP effective May 26, 1987. *See also* 40 C.F.R. § 52.970 and 52 Fed. Reg. 13,671 (April 24, 1987).
17. Louisiana’s PSD program is located in LAC 33:III.509. The federal PSD regulations are codified in 40 C.F.R. § 52.21.

18. The regulations appearing at LAC 33:III.509 were incorporated into and a part of the Louisiana SIP at the time of the major modifications at issue in this case. All citations to the PSD regulations herein refer to the provisions of the Louisiana SIP incorporated into and made a part of the Louisiana SIP as applicable at the time of the major modifications alleged herein.
19. The PSD regulations set forth in LAC 33:III.509 apply to a “major stationary source” that intends to construct a “major modification” in an attainment or unclassifiable area. LAC 33:III.509.B.
20. Under the PSD regulations, “major stationary source” is defined to include carbon black facilities which emit or have the potential to emit one hundred tons per year or more of any regulated air pollutant. LAC 33:III.509.B.
21. Under the PSD regulations, “major modification” is defined in LAC 33:III.509.B as any physical change or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the CAA.
22. Under the PSD regulations, “construction” means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in actual emissions. LAC 33:III.509.B; *See also*, 42 U.S.C. § 7479(2)(c) “Construction” includes the “modification” (as defined in Section 111(a) of the Act, 42 U.S.C. § 7411(a)) of any source or facility.
23. If a source is a major stationary source in an attainment or unclassifiable area planning to construct a major modification under the foregoing definitions, then it is subject to the requirements contained in LAC 33:III.509.
24. A major stationary source subject to the requirements of LAC 33:III.509 must, among other things, perform an analysis of source impacts, perform air quality modeling and analysis, apply BACT, and allow for meaningful public participation in the process. LAC 33:III.509.J-Q.
25. No person shall cause or allow the construction or modification of any source without first obtaining an authority to construct or modify as to comply with all applicable air pollution rules and regulations. *See*, LAC 33:III.509.A.3.

## The Non-Attainment New Source Review Program

26. Part D of Title I of the Act, 42 U.S.C. §§ 7501-7515, sets forth provisions for New Source Review ("NSR") requirements for areas designated as being in nonattainment with the NAAQS standards. These provisions are referred to herein as the "Nonattainment NSR" program. The Nonattainment NSR program is intended to reduce emissions of air pollutants in areas that have not attained NAAQS so that the areas make progress towards meeting the NAAQS. Prior to the effective date of the 1990 Clean Air Act Amendments, P. Law 101-549, effective November 15, 1990, the Nonattainment NSR provisions were set forth at 42 U.S.C. §§ 7501-7508.
27. Under Section 172(c)(5) of the Nonattainment NSR provisions of the Act, 42 U.S.C. § 7502(c)(5), each state is required to adopt Nonattainment NSR SIP rules that include provisions to require permits that conform to the requirements of Section 173 of the Act, 42 U.S.C. § 7503, for the construction and operation of modified major stationary sources within nonattainment areas. Section 173 of the Act, in turn, sets forth a series of minimum requirements for the issuance of permits for major modifications to major stationary sources within nonattainment areas. 42 U.S.C. § 7503.
28. Section 173(a) of the Act, 42 U.S.C. 7503(a), provides that construction and operating permits may be issued if, *inter alia*:
  - “(a) sufficient offsetting emission reductions have been obtained to reduce existing emissions to the point where reasonable further progress towards meeting the national ambient air quality standards is maintained; and
  - (b) the pollution controls to be employed will reduce emissions to the “lowest achievable emission rate.” (LAER)
29. EPA approved the State of Louisiana’s Nonattainment NSR Program in the federally enforceable SIP effective November 10, 1997. 40 C.F.R. § 52.970 and 62 Fed. Reg. 52951 (October 10, 1997).
30. Louisiana’s NSR program is located in LAC 33:III.504. The federal NSR regulations are codified in 40 C.F.R. § 51.165.
31. The regulations appearing at LAC 33:III.504 were incorporated into and a part of the Louisiana SIP at the time of the major modifications at issue in this case. All citations to the NSR regulations herein refer to the provisions of the Louisiana SIP incorporated into and made a part of the Louisiana SIP as applicable at the time of the major modifications alleged herein.



32. A “major stationary source” of NO<sub>x</sub> is one that emits or has the potential to emit, any regulated pollutant at or above the threshold values defined in Table 1 of LAC 33:III.504.G. *See also*, 40 C.F.R. § 51.165(a)(1)(iv)(A)(1).
33. A “significant” net emissions increase of NO<sub>x</sub> is one that would result in increased emissions as defined in Table 1 of LAC 33:III.504.G. *See also*, 42 U.S.C. 7511a and 40 C.F.R. § 51.165(a)(1)(x). (EPA has not approved removal of NO<sub>2</sub> and NO<sub>x</sub> from Table 1.)
34. Under the Nonattainment NSR regulations, “nonattainment area” means, for any air pollutant, an area which is designated “nonattainment” with respect to that pollutant within the meaning of LAC 33:III.504.G. *See also*, 42 U.S.C. § 7501(2).
35. Under the Nonattainment NSR regulations, “lowest achievable emission rate” means, the more stringent rate of emissions based on the following:
  - (A) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or
  - (B) The most stringent emission limitation which is achieved in practice by such class; or category of source, whichever is more stringent. In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance. LAC 33:III.504.G. *See also*, 42.U.S.C. § 7501(3)(A) and (B).
36. Under the Nonattainment NSR regulations, “modifications” and “modified” mean the same as the term “modification” as used in section 7411(a)(4) of this title. LAC 33:III.504.G. *See also*, 42 U.S.C. 7501(4).

#### Federal Title V Requirements

37. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the Act. EPA first promulgated regulations governing state operating permit programs on July 21, 1992. *See* 57 Fed.Reg. 32295; 40 C.F.R. Part 70. EPA promulgated regulations governing the Federal operating permit program on July 1, 1996. *See* 61 Fed. Reg. 34228; 40 C.F.R. Part 71.
38. Section 503 of the CAA, 42 U.S.C. § 7661b, sets forth the requirement to submit a timely, accurate, and complete application for a permit, including information required to be submitted with the application.



39. Section 504(a) of the CAA, 42 U.S.C. § 7661c(a), requires that each Title V permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions necessary to assure compliance with applicable requirements, including those contained in a state implementation plan.
40. 40 C.F.R. § 70.1(b) provides that: “All sources subject to these regulations shall have a permit to operate that assures compliance by the source with all applicable requirements.” *See also*, LAC 33:III.507.A.1.
41. 40 C.F.R. § 70.2 defines “applicable requirement” to include “(1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including revisions to that plan promulgated in Part 52 of this chapter . . .” *See also*, LAC 33:III.507.A.
42. 40 C.F.R. § 70.7(b) provides that no source subject to 40 C.F.R. Part 70 requirements may operate without a permit as specified in the Act. *See also*, LAC 33:III.507.B.
43. 40 C.F.R. § 70.5(a) and (c) require timely and complete permit applications for Title V permits with required information that must be submitted and 40 C.F.R. § 70.6 specifies required permit content. *See also*, LAC 33:III.507.C. 1 and LAC 33:III.17.A (requiring the timely submission of permit applications for existing sources).
44. 40 C.F.R. § 70.5(b) provides that: “Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.” *See also*, LAC 33:III.517.B.1.

#### Louisiana’s Title V Requirements

45. EPA granted full approval of the Louisiana Title V permitting program on October 12, 1995. *See also*, 60 Fed. Reg. 47296 (September 12, 1995).
46. The Louisiana regulations governing the Title V permitting program are codified at LAC 33:III.507, and are federally enforceable pursuant to Section 113(a)(3).
47. LAC 33:III.507.C.1 states that no Part 70 source may operate after the time that it is required to file a timely application with the Louisiana Department of Environmental Quality (LDEQ), except in compliance with an LDEQ-issued permit.

48. LAC 33:III.517.A requires sources to submit timely and complete permit applications for Title V permits with required information and LAC 33:III.507.A specifies required permit content.
49. LAC 33:III.507.E provides that applications for Title V permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance.
50. LAC 33:III.507.C requires sources to submit additional information to LDEQ to supplement or correct an application promptly after becoming aware of the need for additional or corrected information.
51. LAC 33:III.504.D states “prior to constructing any new major stationary source or major modification, a permit shall be obtained from the Louisiana Department of Environmental Quality in accordance with the requirements of this Section.”
52. LAC 33:III.504.G requires the Lowest Achievable Emission Rate (LAER) for a new or modified emissions unit within the stationary source.
53. LAC 33:III.509.I.1 states, “No major stationary source or major modification to which the requirements of this part apply shall begin actual construction without a permit issued under this Section.”
54. LAC 33:III.509.J.3 states, “A major modification shall apply best available control technology for each pollutant subject to regulation under this Section which would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.”

**B. FACTUAL BACKGROUND**

55. SRCC owns and operates a carbon black manufacturing facility in Addis, West Baton Rouge Parish, Louisiana (Facility).
56. SRCC is a privately owned company. SRCC is hereinafter referred to as “Respondent.”
57. Respondent is a “person” within the meaning of Sections 113(a) and 502 of the CAA, 42 U.S.C. §§ 7413(a) and 7661a, and as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

58. At the Facility, Respondent operates three carbon black units (Units 1, 2 and 3). Respondent partially combusts and thermally decomposes a heavy oil feed in a low oxygen reactor under controlled conditions, thus producing solid carbon particles which are recovered as the carbon black product. The carbon black is then dried, pelletized and packaged.
59. The Facility meets the definition of a “major stationary source” in 40 C.F.R. §§ 51.165(a)(1)(iv) and 52.21(b)(1)(i)(a) because it is a carbon black plant that has the potential to emit in excess of 100 tons per year of the following regulated pollutants: CO, NO<sub>x</sub>, SO<sub>2</sub>, PM<sub>10</sub>, VOC, H<sub>2</sub>S, and TRS.
60. West Baton Rouge Parish, Louisiana is currently designated as marginal nonattainment for the 2008, 8-hr ozone standard and either attainment or unclassifiable for all other criteria pollutants. *See*, 40 C.F.R. § 81.319.
61. The Facility currently operates under a Title V Permit (Number: 3120-00006-V0) that was issued by LDEQ on October 15, 2003 and renewed on October 8, 2008 (Number: 3120-00006-V1) and a PSD permit (Number: PSD-LA-152 (m-4)) issued on June 27, 1991.
62. EPA sent Respondent an information request letter pursuant to Section 114 of the CAA, 42 U.S.C. § 7414. By information request letter issued pursuant to the authority of Section 114 of the Act, 42 U.S.C. § 7414, dated August 19, 2010, EPA required Respondent to submit specific information regarding its carbon black manufacturing facilities located within Region 6. During an inspection of the Facility on August 1, 2011, EPA also required Respondent to submit specific information regarding its carbon black manufacturing facilities.
63. SRCC provided responses to EPA’s information requests on January 24, 2011, and December 1, 2011.

### **C. VIOLATIONS**

64. Upon review of the information provided by Respondent, referenced above in Paragraph 62, EPA Region 6 has concluded that Respondent conducted capital projects on carbon black units at the Facility which increased the Facility’s capacity to produce carbon black.
65. Furthermore, the projects referenced in Paragraphs 66 through 113 also meet the definition of “major modification” provided under 40 C.F.R. §§ 51.165(a)(1)(v), 52.21(b)(2)(i), LAC 33:III.504.A and LAC 33:III.509.B, because they represent a physical change in, or a change in the method of operation of, a major stationary source that resulted in a significant emissions increases of a regulated NSR pollutant(s) (specifically NO<sub>x</sub>, SO<sub>2</sub>, CO, VOC, and PM<sub>10</sub>), and significant net emissions increases of those pollutants from a major stationary source.

**(1) Failure to Obtain PSD Permit Prior to Making a Major Modification to the Facility Known as the “Addis Expansion Project” in or about March 1991 (SO<sub>2</sub> and PM<sub>10</sub> Emissions Increases)**

66. On March 8, 1989 EPA approved LAC 33:III.509 of the Louisiana SIP. *See* 40 C.F.R. § 52.970(c)(69) (EPA approval of the Louisiana revisions to the relevant section of the Louisiana SIP).
67. In or about March 1991, Respondent made a major modification at the Facility by installing new reactors on Units 1 and 3, the “Addis Expansion Project”. The modification resulted in increased capacity at the unit.
68. The modification triggered “significant” net emissions increases in SO<sub>2</sub> and PM<sub>10</sub> emissions as defined in 40 C.F.R. § 52.21(b)(23), and LAC 33:III.509.B, and is therefore considered a “major modification” as defined in 40 C.F.R. § 52.21(b)(2)(i).
69. In failing to apply for and obtain authority, via the necessary construction permits, prior to commencing construction on the “Addis Expansion Project” at the Facility in or about March 1991, Respondent violated and continues to be in violation of LAC 33:III.509.I.1 of the Louisiana SIP and the federal requirements for preconstruction permits under applicable PSD regulations.
70. In failing to apply BACT to the major modification, and commencing operations each day thereafter without applying necessary technologies under BACT, Respondent continues to accrue violations of applicable federal and state PSD requirements for a major modification. LAC 33:III.509.J.3.
71. In reinitiating (restart of facility processes after major modification) and continuing to operate the Facility without obtaining or applying for the required permit to operate following completion of the major modification, Respondent continues to accrue violations of applicable federal and state PSD regulations.

**(2) Failure to Obtain NSR/PSD Permit Prior to Making a Major Modification at Unit 3 in or about July 2000 (CO, NO<sub>x</sub>, SO<sub>2</sub>, and PM<sub>10</sub>, Emissions Increases)**

72. On October 10, 1997, EPA approved Section 33:III.504 of the Louisiana SIP, and on March 8, 1989, EPA approved Section 33:III.509 of the Louisiana SIP. *See* 40 C.F.R. §§ 52.970(c)(68) and 52.970(c)(69) (EPA approval of the Louisiana revisions to the relevant section of the Louisiana SIP).
73. In or about July 2000, Respondent made a major modification at Unit 3 by increasing the capacity of the primary bag filter on Unit 3. The modification resulted in increased capacity at the unit.

74. This modification triggered “significant” net emissions increases in CO, NO<sub>x</sub>, SO<sub>2</sub>, and PM<sub>10</sub>, emissions as defined in 40 C.F.R. §§ 51.165(a)(1)(x), 52.21(b)(23) and LAC 33:III. 504.G and LAC 33:III.509.B, and is therefore considered a “major modification” as defined in 40 C.F.R. §§ 51.165(a)(1)(v) and 52.21 (b)(2)(i).
75. In failing to apply for and obtain authority, via the necessary construction permits, prior to modifying Unit 3 at the Facility in or about July 2000, Respondent violated and continues to be in violation of LAC 33:III.504.D and LAC 33:III.509.I.1 of the Louisiana SIP and federal requirements for preconstruction permits under applicable NSR and PSD regulations.
76. In failing to apply LAER and BACT to the major modification, and commencing operations each day thereafter without applying necessary technologies under LAER and BACT, Respondent continues to accrue violations of applicable federal and state NSR and PSD requirements for a major modification. LAC 33:III.504.D and LAC 33:III.509.J.3.
77. In reinitiating (restart of facility processes after major modification) and continuing to operate the Facility without obtaining or applying for the required permit to operate following completion of the major modification, Respondent continues to accrue violations of applicable federal and state NSR and PSD regulations.

**(3) Failure to Obtain NSR/PSD Permit Prior to Making a Major Modification to the No. C Process Air Blower in or about July 2001 (CO, NO<sub>x</sub>, and PM<sub>10</sub> Emissions Increases)**

78. On October 10, 1997, EPA approved Section 33:III.504 of the Louisiana SIP (effective until July 30, 2001), and on March 8, 1989, EPA approved Section 33:III.509 of the Louisiana SIP. *See* 40 C.F.R. §§ 52.970(c)(68) and 52.970(c)(69) (EPA approval of the Louisiana revisions to the relevant section of the Louisiana SIP).
79. In or about July 2001, Respondent made a major modification by replacing the No. C Process Air Blower with a blower designed to operate at a greater header pressure. The modification resulted in increased capacity at Units 1, 2, and 3 since the blower supplies air to all three units.
80. This modification triggered “significant” net emission increases in CO, NO<sub>x</sub>, and PM<sub>10</sub> emissions as defined in 40 C.F.R. §§ 51.165(a)(1)(v), 52.21(b)(23), LAC 33:III.504.G and LAC 33:III.509.B, and is therefore considered a “major modification” as defined in 40 C.F.R. §§ 51.165(a)(1)(v) and 52.21(b)(2)(i).



81. In failing to apply for and obtain authority, via the necessary construction permits, prior to making the modifications at the Facility in or about July 2001, Respondent violated and continues to be in violation of LAC 33:III.504.D and LAC 33:III.509.I.1 of the Louisiana SIP and the federal requirements for preconstruction permits under applicable NSR and PSD regulations. LAC 33:III.504.D and LAC 33:III.509.J.3.
82. In failing to apply LAER and BACT to the major modification, and commencing operations each day thereafter without applying necessary technologies under LAER and BACT, Respondent continues to accrue violations of applicable federal and state NSR and PSD requirements for the major modification. LAC 33:III.504.D and LAC 33:III.509.J.3.
83. In reinitiating (restart of facility processes after major modification) and continuing to operate the Facility without obtaining or applying for the required permit to operate following completion of the major modifications, Respondent continues to accrue violations of applicable federal and state NSR and PSD regulations.

**(4) Failure to Obtain NSR/PSD Permit Prior to Making a Major Modification to Dryer Drums at the Facility in or about September 2001 (CO, NO<sub>x</sub>, SO<sub>2</sub>, and PM<sub>10</sub> Emissions Increases)**

84. On May 31, 2001 EPA approved Section 33:III.504 of the Louisiana SIP (effective July 30, 2001), and on March 8, 1989, EPA approved Section 33:III.509 of the Louisiana SIP. *See* 40 C.F.R. §§ 52.970(c)(68) and 52.970(c)(69) (EPA approval of the Louisiana revisions to the relevant section of the Louisiana SIP).
85. In or about September 2001, Respondent made a major modification to the vanes of six dryer drums for Units 1, 2, and 3. The modification resulted in increased capacity at the units.
86. The modification triggered “significant” net emissions increases in CO, NO<sub>x</sub>, SO<sub>2</sub>, and PM<sub>10</sub> emissions as defined in 40 C.F.R. §§ 51.165(a)(1)(x), 52.21(b)(23), LAC 33:III.504.G and LAC 33:III.509.B, and is therefore considered a “major modification” as defined in 40 C.F.R. §§ 51.165(a)(1)(v) and 52.21(b)(2)(i).
87. In failing to apply for and obtain authority, via the necessary construction permits, prior to making the modification at the Facility in or about September 2001, Respondent violated and continues to be in violation of LAC 33:III.504.D and LAC 33:III.509.I.1 of the Louisiana SIP and the federal requirements for preconstruction permits under applicable NSR and PSD regulations.



88. In failing to apply LAER and BACT to the major modification, and commencing operations each day thereafter without applying necessary technologies under LAER and BACT, Respondent continues to accrue violations of applicable federal and state NSR and PSD requirements for the major modification. LAC 33:III.504.D and LAC 33:III.509.J.3.

89. In reinitiating (restart of facility processes after major modification) and continuing to operate the Facility without obtaining or applying for the required permit to operate following completion of the major modification, Respondent continues to accrue violations of applicable federal and state NSR and PSD regulations.

**(5) Failure to Obtain PSD Permit Prior to Making a Major Modification to Unit 3 in or about November 2003 (CO, SO<sub>2</sub>, and PM<sub>10</sub> Emissions Increases)**

90. EPA approved LAC 33:III.509 of the Louisiana SIP on March 8, 1989. *See* 40 C.F.R. § 52.970(c)(69) (EPA approval of the Louisiana revisions to the relevant section of the Louisiana SIP).

91. In or about November 2003, Respondent made a major modification by replacing the air preheater on Unit 3, Reactor 10 with a larger preheater. The modification resulted in increased capacity at the unit.

92. This modification triggered “significant” net emissions increases in CO, SO<sub>2</sub>, and PM<sub>10</sub> emissions as defined in 40 C.F.R. § 52.21(b)(23) and LAC 33:III.509.B, and is therefore considered a “major modification” as defined in 40 C.F.R. § 52.21(b)(2)(i).

93. In failing to apply for or obtain authority, via the necessary construction permit, prior to modifying Unit 3 at the Facility in or about 2003 and 2004, Respondent violated and continues to be in violation of LAC 33:III.509.I.1 of the Louisiana SIP and the federal requirements for preconstruction permits under applicable PSD regulations.

94. In failing to apply BACT to the major modification, and commencing operations each day thereafter without applying necessary technologies under BACT, Respondent continues to accrue violations of applicable federal and state PSD requirements for the major modification. LAC 33:III.509.J.3.

95. In reinitiating (restart of facility processes after major modification) and continuing to operate the Facility without obtaining or applying for the required permit to operate following completion of the major modification, Respondent continues to accrue violations of applicable federal and state PSD regulations.

**(6) Failure to Obtain PSD Permit Prior to Making a Major Modification to an Air Preheater on Unit 1 at the Facility in or about May 2006 (CO, SO<sub>2</sub>, and PM<sub>10</sub> Emissions Increases)**

96. EPA approved LAC 33:III.509 of the Louisiana SIP on March 8, 1989. *See* 40 C.F.R. § 52.970(c)(69) (EPA approval of the Louisiana revisions to the relevant section of the Louisiana SIP).
97. In or about May 2006, Respondent made a major modification by repairing and upgrading an air preheater on Unit 1 at the Facility. The modification resulted in increased capacity at the unit.
98. This modification triggered “significant” net emissions increases in CO, SO<sub>2</sub>, and PM<sub>10</sub> emissions as defined in 40 C.F.R. § 52.21(b)(23) and LAC 33:III.509.B, and is therefore considered a “major modification” as defined in 40 C.F.R. § 52.21(b)(2)(i).
99. In failing to apply for or obtain authority, via the necessary construction permit, prior to modifying the air preheater at the Facility in or about May 2006, Respondent violated and continues to be in violation of LAC 33:III.509.I.1 of the Louisiana SIP and the federal requirements for preconstruction permits under applicable PSD regulations.
100. In failing to apply BACT to the major modification, and commencing operations each day thereafter without applying necessary technologies under BACT, Respondent continues to accrue violations of applicable federal and state PSD requirements for major modifications. LAC 33:III.509.J.3.
101. In reinitiating (restart of facility processes after major modification) and continuing to operate the Facility without obtaining or applying for the required permit to operate following completion of the major modifications, Respondent continues to accrue violations of applicable federal and state PSD regulations.

**(7) Failure to Obtain PSD Permit Prior to Making a Major Modification to Units 1 and 2 in or about March 2006 (CO, SO<sub>2</sub>, and PM<sub>10</sub> Emissions Increases)**

102. EPA approved LAC 33:III.509 of the Louisiana SIP on March 8, 1989. *See* 40 C.F.R. § 52.970(c)(69) (EPA approval of the Louisiana revisions to the relevant section of the Louisiana SIP).
103. In or about March 2006, Respondent made a major modification to Units 1 and 2 by installing a new blower. The modification resulted in increased capacity at the units.

104. This modification triggered “significant” net emissions increases in CO, SO<sub>2</sub>, and PM<sub>10</sub> emissions as defined in 40 C.F.R. § 52.21(b)(23) and LAC 33:III.509.B, and is therefore considered a “major modification” as defined in 40 C.F.R. § 52.21(b)(2)(i).
105. In failing to apply for or obtain authority via the necessary construction permit prior to modifying Units 1 and 2 at the Facility in or about March 2006, Respondent violated and continues to be in violation of LAC 33:III.509.I.1 of the Louisiana SIP and the federal requirements for preconstruction permits under applicable PSD regulations.
106. In failing to apply BACT to the major modification and commencing operations each day thereafter without applying necessary technologies under BACT, Respondent continues to accrue violations of applicable federal and state PSD requirements for the major modification. LAC 33:III.509.J.3.
107. In reinitiating (restart of facility processes after major modification) and continuing to operate the Facility without obtaining or applying for the required permit to operate following completion of the major modification, Respondent continues to accrue violations of applicable federal and state PSD regulations.

**(8) Failure to Obtain PSD Permit Prior to Making a Major Modification by Installing Two Air Preheaters in or about October 2009 (CO, SO<sub>2</sub>, and PM<sub>10</sub> Emissions Increases)**

108. EPA approved LAC 33:III.509 of the Louisiana SIP on March 8, 1989. *See* 40 C.F.R. § 52.970(c)(69) (EPA approval of the Louisiana revisions to the relevant section of the Louisiana SIP).
109. In October 2009, Respondent made a major modification that included increasing reactor choke sizes, increasing process air blower pressures, upgrading two air preheaters, and installing additional burners at the dryers on Unit 1, Unit 2, and potentially Unit 3. The modification resulted in increased capacity at the units.
110. The modification triggered “significant” net emissions increases in CO, SO<sub>2</sub>, and PM<sub>10</sub> emissions as defined in 40 C.F.R. § 52.21(b)(23) and LAC 33:III.509.B, and is therefore considered a “major modification” as defined in 40 C.F.R. § 52.21(b)(2)(i).
111. In failing to apply for or obtain authority, via the necessary construction permit, prior to modifying the Facility in or about March 2010, Respondent violated and continues to be in violation of LAC 33:III.509.I.1 of the Louisiana SIP and the federal requirements for preconstruction permits under applicable PSD regulations. 40 C.F.R. § 52.21(j)(3) and 40 C.F.R. § 52.21 (j) – (r).

112. In failing to apply BACT to the major modification, and commencing operations each day thereafter without applying necessary technologies under BACT, Respondent continues to accrue violations of applicable federal and state PSD requirements for the major modification. 40 C.F.R. § 52.21(j)(3) and LAC 33:III.509.J.3.
113. In reinitiating (restart of facility processes after major modification) and continuing to operate the Facility without obtaining or applying for the required permit to operate following completion of the major modification, Respondent continues to accrue violations of applicable federal and state PSD regulations.

**(9) Failure to Include LAER and BACT in the Title V Permit**

114. On October 15, 2003, Respondent obtained Federal Operating Permit No. 3120-00006-V0. The Title V permit was deficient, as it did not include LAER and BACT requirements for projects that should have gone through NSR and PSD review for the following pollutants: CO, NO<sub>x</sub>, SO<sub>2</sub>, and PM<sub>10</sub>.
115. A renewal for Permit No. 3120-00006-V0 was issued on October 8, 2008 (No. 3120-00006-V1). That Title V permit was deficient, as it did not include LAER and BACT requirements for projects that should have gone through NSR and PSD review for the following pollutants: CO, NO<sub>x</sub>, SO<sub>2</sub>, and PM<sub>10</sub>.
116. Accordingly, the Title V permit issued on October 15, 2003 and renewed on October 8, 2008 did not include emissions limitations for CO, NO<sub>x</sub>, SO<sub>2</sub>, and PM<sub>10</sub> that assure compliance with the NSR and PSD requirements of the Act and the Louisiana SIP.
117. In failing to assure compliance with all applicable emission limitations, specifically those requiring that it incorporate LAER and BACT for the pollutants CO, NO<sub>x</sub>, SO<sub>2</sub>, and PM<sub>10</sub> into its permit applications and subsequent permits, Respondent violated and continues to violate Section 502(a) and 504(a) of the Act, 42 U.S.C. Sections 7761a(a) and 7761c(a), as well as 40 C.F.R. Sections 70.5 and 70.6(a) (2009).

**D. ENFORCEMENT**

Sections 113(a)(1) and (3) of the Act, 42 U.S.C. § 7413(a)(1) and (3), provide that the Administrator may bring a civil action in accordance with Section 113(b) of the Act, 42 U.S.C. § 7413(b), whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of, inter alia, the PSD requirements of Section 165(a) of the Act, 42 U.S.C. § 7475(a); Title V of the Act, 42 U.S.C. §§ 7661-7661f, or any rule or permit issued thereunder; or the PSD provisions of the Louisiana SIP. *See also*, 40 C.F.R. § 52.23.

Section 113(b) of the Act, 42 U.S.C. § 7413(b), authorizes the Administrator to initiate a judicial enforcement action for a permanent or temporary injunction, and/or for a civil penalty of up to \$25,000 per day for each violation occurring on or before January 30, 1997; up to \$27,500 per day for each such violation occurring on or after January 31, 1997 and up to and including March 15, 2004; up to \$32,500 per day for each such violation occurring on or after March 16, 2004 through January 12, 2009; and up to \$37,500 per day for each such violation occurring on or after January 13, 2009, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701, 40 C.F.R. § 19.4, and 74 Fed. Reg. 626 (Jan. 7, 2009) against any person whenever such person has violated, or is in violation of, inter alia, the requirements or prohibitions described in the preceding paragraph.

Section 167 of the Act, 42 U.S.C. § 7477, authorizes the Administrator to initiate an action for injunctive relief, as necessary to prevent the construction, modification or operation of a major emitting facility which does not conform to the PSD requirements in Part C of the Act.

#### **E. OPPORTUNITY FOR CONFERENCE**

SRCC may, upon request, confer with EPA. The conference will enable SRCC to present evidence bearing on the finding of violations, on the nature of the violations, and on any efforts it may have taken or proposes to take to achieve compliance. SRCC has a right to be represented by counsel. A request for a conference or other inquiries concerning the Notice should be made within ten (10) days of receipt of this Notice, and the request for a conference or other inquiries concerning the Notice should be made in writing to:

Lorraine Dixon (6RC-EA)  
Assistant Regional Counsel  
Air Enforcement Branch  
Office of Regional Counsel, Region 6  
U.S. Environmental Protection Agency  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733

If you have any questions, please feel free to call Ms. Dixon at (214) 665-7589.

**F. EFFECTIVE DATE**

This NOV shall become effective immediately upon issuance.

Dated: FEB 08 2013



John Blevins  
Director  
Compliance Assurance and  
Enforcement Division